

Notice of Allowability

Application No.

10/688,462

Examiner

Vinh T Luong

Applicant(s)

ALLAEI, DARYOUSH

Art Unit

3682

NW

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 10/29/2004 and.
2. ☒ The allowed claim(s) is/are 1-14.
3. ☒ The drawings filed on 17 October 2003 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413),
Paper No./Mail Date attached.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☒ Other See attached sheets.

Vinh T. Luong
Vinh T. Luong
Primary Examiner

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1. The Amendment filed on October 4, 2004 has been entered.
2. The Terminal Disclaimer (TD) filed on October 4, 2004 was improper and had not been accepted because the person who signed the TD was not an attorney "of record" at the time of signing. See MPEP § 1490.
3. The TD filed on October 29, 2004 is proper and has been recorded.
4. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

This application is in condition for allowance except for the presence of claims 15-20 drawn to species non-elected without traverse. Accordingly, claims 15-20 have been cancelled. See MPEP § 821.02.

5. Claims 1-14 are allowed.
6. The following is an examiner's statement of reasons for allowance: claims 1-14 are allowed because Applicant has filed a proper TD to overcome the obviousness-type double patenting rejection in the first Office action on August 3, 2004. See other reasons in paragraph 10 on page 5 of the first Office action above.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

7. Other:

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With respect to the Election/Restriction, on page 6 of the Amendment filed on October 4, 2004, Applicant stated:

Claims 2 and 15-20 were withdrawn in the response, tiled on April 28, 2004, to the Restriction Requirement mailed March 31, 2004. The Examiner indicated that claim 1 was generic for Group 1 of the Restriction Requirement mailed March 31, 2004, without specifying the content of Group 1. Applicant respectfully submits that *claim 1 is generic to claims 2 and 15-20*. Applicant respectfully requests consideration of claims 2 and 15-20 upon allowance of generic claim 1 under 37 CFR 1.141. (Emphasis added).

Contrary to Applicant's remarks, claim 1 is *not* generic to claims 15-20 because claim 15 does not depend upon or otherwise include each of the limitations of the allowed claim 1 as required by 37 CFR 1.141. Therefore, Applicant's request for consideration of claims 15-20 is respectfully denied.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vinh T. Luong whose telephone number is 703-308-3221. The examiner can normally be reached on Monday, Tuesday, Thursday, and Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Bucci can be reached on 703-308-3668. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Luong

November 12, 2004



Vinh T. Luong
Primary Examiner